

Applicants: Arlindo L. Castelhana et al.
Serial No.: 10/816,329
Filed : March 31, 2004
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REMARKS

Claims 5, 11, 12, 22, 23 and 187-189 were pending in the subject application, of which claims 11, 12, 22, 23 and 187-189 were indicated to be allowable. By this amendment, Applicants have amended claim 5 such that it recites the subject matter acknowledged on page 3 of the April 2, 2007 Office Action to be enabled. Consequently, claims 5 (as amended), 11, 12, 22, 23, and 187-189 are currently pending in the subject application.

Specification

On page 2 of the April 2, 2007 Official Action, the Examiner objected to the abstract for allegedly being too short and generic. The Examiner stated that the amended abstract submitted with the preliminary amendments and the abstract on file are identical. The Examiner suggested resubmitting an amended abstract.

In response, Applicants point out that the Abstract was indeed amended by the March 31, 2004 Preliminary Amendment on pages 6-7 in order to reflect claim 11. A copy of these pages from the Preliminary Amendment is attached hereto as **Exhibit A**. Accordingly, Applicants respectfully request that the Examiner withdraw this objection to the specification.

Rejection Under 35 U.S.C. 112

On page 3 of the April 2, 2007 Office Action, the Examiner rejected claim 5 under 35 U.S.C. 112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention. The Examiner is of the view that "neutrophil

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chemotaxis" is not a disease, and that this term refers to the body's natural process that occurs as a first line of defense against an infection or inflammation. The Examiner further alleged that the term "sedation" is not a disease and that sedation is a state that is produced by pharmaceuticals.

On page 3 of the April 2, 2007 Office Action, the Examiner rejected claim 5 under 35 U.S.C. 112, first paragraph, as allegedly failing to comply with the enablement requirement. The Examiner alleged that the claim contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, and that such a utility cannot be deemed enabled.

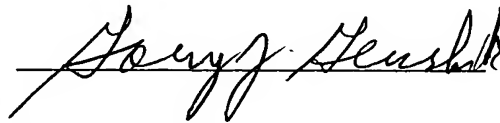
The Examiner did, however, indicate that claims to the treatment of antidiuresis, glaucoma, mast cell degranulation, asthma, allergic rhinitis, bronchitis and bronchoconstriction, are enabled.

In response, without conceding the correctness of the Examiner's argument or relinquishing their right to pursue patent protection for any canceled subject matter, Applicants have amended claim 5 to recite those diseases which the Examiner deemed to be enabled.

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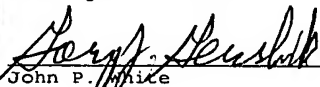
No fee, other than the enclosed \$1,050.00 fee for a three-month extension of time, is deemed necessary in connection with the filing of this Petition. However, if any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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